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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,972	02/10/2004	Robert A. Henderson	210121.455C21	1812

500 7590 11/18/2005	EXAMINER
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC	YAO, LEI

701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

ART UNIT	PAPER NUMBER
1642	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/775,972	HENDERSON ET AL.
	Examiner	Art Unit	
	Lei Yao, Ph.D.	1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*28 September 2005*</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>*5/4/05, 9/10/04.*</u>

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☒ Other: *exhibit A*.

DETAILED ACTION

Election/Restrictions

Applicant's election of group III (claim 8) in the reply filed on 4/28/05is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the

restriction requirement, the election has been treated as an election without traverse (MPEP

§ 818.03(a)).

Information Disclosure Statement

The information disclosure statement (s) (IDS) submitted on 9/10/04 and 5/4/05 are/is

considered by the examiner and initialed copies of the PTO-1449s are enclosed.

Priority

The later-filed application must be an application for a patent for an invention which is
also disclosed in the prior application (the parent or original nonprovisional application or
provisional application); the disclosure of the invention in the parent application and in the later-
filed application must be sufficient to comply with the requirements of the first paragraph of 35
U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32
USPQ2d 1077 (Fed. Cir. 1994).

Acknowledgement is made of applicant's claims to an earlier effective filing date through

US non-provisional application, 09285479 ('479) filed 4/2/1999. Claim 8 of instant application is

drawn to a method for stimulating an immune response in a patient, comprising administering to

the patient a composition of antibody that specifically bind to a the polypeptide of SEQ ID NO:

161. Upon review of specification of the applications, it is noted that the'479 application does not

provide adequate written description of administering a patient of composition comprising an

antibody for SEQ ID NO: 161. Therefore, the claim 8 will have a priority date of 12/17/1999.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Holroyd et al., (US Patent 6576434), or Pauli et al., (US Patent, 6309857) as evidenced by Abbas et al., (page 393, column 2, section antibodies, Cellular and Molecular Immunology, 4th edition, Published by W.B. Saunders Company, 2000).

Holroyd et al., disclose a pharmaceutical composition comprising an antibody to a protein, ICACC, which is 99.6% identical to the protein having amino acid sequence SEQ ID NO: 161 as evidenced by protein sequence search (see Exhibit A). Holroyd et al., disclose a method of administering antagonists of ICACC comprising antibody for the protein to treat a disease through induction of immune response in a individual (col 17, line 56-60, col 19, line 36-40, line 60-67 and col 20, line 1-5).

Pauli et al., disclose a pharmaceutical composition comprising an antibody to a protein specifically expressed in lung, which is 99.7% identical to the protein having amino acid sequence of SEQ ID NO: 161 as evidenced by protein sequence search (see Exhibit B). Pauli et al., disclose a method of administering to a patient a therapeutically effective amount of the composition comprising an antibody to prevent lung-metastatic tumor spreading (col 21-22, example 9).

Treating cancer with an antibody to a protein responsible for a tumor development is a widely used method in the art. It is well known that administration of any foreign substance including a polypeptide antibody for treating tumor will inherently stimulate an immune response that also includes killing tumor cells by activating complement or by antibody-dependent cell-mediated cytotoxicity, in which Fc receptor-bearing macrophage or NK cells mediated the killing (Abbas et al., page 393, column 2, section).

Conclusion

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lei Yao, Ph.D. whose telephone number is 571-272-3112. The examiner can normally be reached on 8am-4.30pm Monday to Friday.

Any inquiry of a general nature, matching or file papers or relating to the status of this application or proceeding should be directed to Kim Downing for Art Unit 1642 whose telephone number is 571-272-0521

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lei Yao, Ph.D.
Examiner
Art Unit 1642

LY

SHEELA HUFF
PRIMARY EXAMINER

Thu Oct 27 12:18:52 2005

us-10-775-972-161.ral

TITLE OF INVENTION: Nucleotide Sequences Encoding Mammalian Calcium
TITLE OF INVENTION: Activated Chloride Channel-Adhesion Molecules
FILE REFERENCE: 18617.0058
CURRENT APPLICATION NUMBER: US/10/055,412B
CURRENT FILING DATE: 2001-10-29
PRIOR APPLICATION NUMBER: US/09/193,562
PRIOR FILING DATE: 1998-11-17
PRIOR APPLICATION NUMBER: US/60/065,922
PRIOR FILING DATE: 1997-11-17
NUMBER OF SEQ ID NOS: 47
SEQ ID NO 32
LENGTH: 943
TYPE: PRT
ORGANISM: Homo sapiens
US-10-055-412B-32

Query Match   99.7%;   Score 4926; DB 4; Length 943;
Best Local Similarity 99.6%; Pred. No. 0;
Matches 939; Conservative   2; Mismatches   2; Indels   0; Gaps   0;

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Qy  361  RAQLHQINSNDDRKLLVSYLPTTVSAKTDISICSGLKKGFEVVEKLNGKAYGSVMILVTS  420
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Exhibit A

RESULT 12
US-09-623-624-4
; Sequence 4, Application US/09623624
; Patent No. 6576434
; GENERAL INFORMATION:
; APPLICANT: Magainin Pharmaceuticals, Inc.
; TITLE OF INVENTION: Asthma-Associated Factors as Targets for Treating
; TITLE OF INVENTION: Atopic Allergies, Including Asthma and Related
; TITLE OF INVENTION: Disorders
; FILE REFERENCE: 36870-5073-WO
; CURRENT APPLICATION NUMBER: US/09/623,624
; CURRENT FILING DATE: 2000-09-06
; PRIOR APPLICATION NUMBER: PCT/US99/04703
; PRIOR FILING DATE: 1999-03-03
; PRIOR APPLICATION NUMBER: US 08/697,360
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/697,419
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/697,440
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/697,471
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/697,471
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/697,472
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/697,473
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/702,105
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/702,110
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/702,168
; PRIOR FILING DATE: 1996-08-23
; PRIOR APPLICATION NUMBER: US 08/980,872
; PRIOR FILING DATE: 1997-12-01
; NUMBER OF SEQ ID NOS: 18
; SOFTWARE: PatentIn Ver. 2.0
; SEQ ID NO 4
; LENGTH: 943
; TYPE: PRT
; ORGANISM: Homo sapiens
US-09-623-624-4

Query Match   99.6%;   Score 4921; DB 4; Length 943;
Best Local Similarity 99.6%; Pred. No. 0;
Matches 939; Conservative   2; Mismatches   2; Indels   0; Gaps   0;

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Qy  181  KPFYINGQNQIKVTRCSSDITGIFVCEKGPCPQENCIISKLFKEGCTFIYNSTQNATASI  240
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                   PRIOR FILING DATE: ...
                   PRIOR APPLICATION NUMBER: US 08/697,471
                   PRIOR FILING DATE: 1996-08-23
                   PRIOR APPLICATION NUMBER: US 08/697,471
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                   PRIOR APPLICATION NUMBER: US 08/697,472
                   PRIOR FILING DATE: 1996-08-23
                   PRIOR APPLICATION NUMBER: US 08/697,473
                   PRIOR FILING DATE: US 08/702,105
                   PRIOR FILING DATE: 1996-08-23
                   Remaining Prior Application data removed - See File Wrapper or PALM.
                   NUMBER OF SEQ ID NOS: 18
                   SOFTWARE: PatentIn Ver. 2.0
                   SEQ ID NO 4
                   LENGTH: 943
                   TYPE: PRT
                   ORGANISM: Homo sapiens
                   US-10-270-595-4...

Query Match             99.6%;   Score 4921;  DB 4;  Length 943;
Best Local Similarity   99.6%;   Pred. No. 0;
Matches  939;  Conservative   2;  Mismatches   2;  Indels   2;  Gaps   0;

Qy    1 MTQRSIAGPICNLKFVTLLVALSSELPFLGAGVQLQDNGYNGLLIAINPQVPENQNLISN 60
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Qy   61 IKEMITEASFYLFNATKRRVFFRNIKILIPATWKANNNSKIKQESYEKANVIVTDWYGAH 120
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Qy  121 GDDPYTLQYRGCGKEGKYIHFTPNFLLNDNLTAGYGSRGRVFVHEWAHLRKGVFDEYNND 180
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Qy  181 KPFYINGQNQIKVTRCSSDITGIFVCEKGPCPQENCIISKLFKEGCTFIYNSTQNATASI 240
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Qy  301 TFSLVEAGDKVVCLVLDVSSKMAEADRLLQLQQAABFYLMQIVEIHTFVGIASFDSKGEI 360
        ||||||||||||||||| ||||||||||||||||||||||||||||||||||||||||| |
Db  301 TFSLVEAGDKVVCLVLDASSKMAEADRLLQLQQAABFYLMQIVEIHTFVGIASFDSKGBI 360

Qy  361 RAQLHQINSNDDRKLLVSYLPTTVSAKTDISICSGLKKGFEVVEKLNGKAYGSVMILVTS 420
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        ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
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Qy  481 SRISSGTGDIFQQHIQLESTGENVKPHHQLKNTVTVGNDTMFLVTWQASGPPEIIL 540
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Qy  541 FDPDGRKYTNNFITNLTFRTASLWIPGTAKPGHWTYTLNNTHHSLQALKVTVTSRASNS 600
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Qy  601 AVPPATVEAFVERDSLHFPHPVMIYANVKQGFYPILNATVTATVEPETGDPVTLRLLDDG 660
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Qy  661 AGADVIKNDGIYSRYFFSFAANGRYSLKVHVNHSPSISTPAHSIPGSHAMYVPGYTANGN 720
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Qy  241 MFMQSLSSVVEFCNASTHNQEAPNLQNQMCSLRSAWDVITDSADFHHSFPMNGTELPPPP 300
        ||| ||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db  241 MFMRSLSSVVEFCNASTHNQEAPNLQNQMCSLRSAWDVITDSADFHHSFPMNGTELPPPP 300
Qy  301 TFSLVEAGDKVVCLVLDVSSKMAEADRLLQLQQAABFYLMQIVEIHTFVGIASFDSKGEI 360
        ||||||||||||||||| |||||||||||||||||||||||||||||||||||||||||
Db  301 TFSLVEAGDKVVCLVLDASSKMAEADRLLQLQQAABFYLMQIVEIHTFVGIASFDSKGBI 360
Qy  361 RAQLHQINSNDDRKLLVSYLPTTVSAKTDISICSGLKKGFEVVEKLNGKAYGSVMILVTS 420
        ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db  361 RAQLHQINSNDDRKLLVSYLPTTVSAKTDISICSGLKKGFEVVEKLNGKAYGSVMILVTS 420
Qy  421 GDDKLLGNCLPTVLSSGSTIHSIALGSSAAPNLBELSRLTGGLKPFVPDISNSNSMIDAF 480
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Qy  481 SRISSGTGDIFQQHIQLESTGENVKPHHQLKNTVTVGNDTMFLVTWQASGPPEIIL 540
        |||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db  481 SRISSGTGDIFQQHIQLESTGENVKPHHQLKNTVTVGNDTMFLVTWQASGPPEIIL 540
Qy  541 FDPDGRKYTNNFITNLTFRTASLWIPGTAKPGHWTYTLNNTHHSLQALKVTVTSRASNS 600
        |||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db  541 FDPDGRKYTNNFITNLTFRTASLWIPGTAKPGHWTYTLNNTHHSLQALKVTVTSRASNS 600
Qy  601 AVPPATVEAFVERDSLHFPHPVMIYANVKQGFYPILNATVTATVEPETGDPVTLRLLDDG 660
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Db  601 AVPPATVEAFVERDSLHFPHPVMIYANVKQGFYPILNATVTATVEPETGDPVTLRLLDDG 660
Qy  661 AGADVIKNDGIYSRYFFSFAANGRYSLKVHVNHSPSISTPAHSIPGSHAMYVPGYTANGN 720
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Db  661 AGADVIKNDGIYSRYFFSFAANGRYSLKVHVNHSPSISTPAHSIPGSHAMYVPGYTANGN 720
Qy  721 IQMNAPRKSVGRNEBERKWGFSRVSSGGSFSVLGVPAGHPDVFPPCKIIDLBAVKVEBE 780
        ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db  721 IQMNAPRKSVGRNEBERKWGFSRVSSGGSFSVLGVPAGHPDVFPPCKIIDLBAVKVEBE 780
Qy  781 LTLSWTAPGEDFDQGQATSYEIRMSKSLQNIQDDFNNAILVNTSKRNPQQAGIREIFTPS 840
        ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db  781 LTLSWTAPGEDFDQGQATSYEIRMSKSLQNIQDDFNNAILVNTSKRNPQQAGIREIFTPS 840
Qy  841 PQISTNGPEHQPNGETHESHRIYVAIRAMDRNSLQSAVSNIAQAPLFIPPNSDPVPARDY 900
        ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db  841 PQISTNGPEHQPNGETHESHRIYVAIRAMDRNSLQSAVSNIAQAPLFIPPNSDPVPARDY 900
Qy  901 LILKGVLTAMGLIGIICLIIVVTHHTLSRKKGRADKKENGTKLL 943
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Db  901 LILKGVLTAMGLIGIICLIIVVTHHTLSRKKGRADKKENGTKLL 943
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